IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

TUESDAY, THE 17TH JULY 2007 / 26TH ASHADHA 1929

WP(C).No. 24772 of 2005(Y)

PETITIONER:

KRISHNA KURUP C.N. ALAPPATTU HOUSE,
THONAKKAD, CHERIYANAD VILLAGE.

BY ADV. SRI.R.PADMAKUMAR

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE CHIEF SECRETARY, GOVERNMENT OF KERALA, THIRUVANANTHAPURAM.

2. THE DISTRICT COLLECTOR, ALAPPUZHA.

3. THE SUB COLLECTOR/REVENUE DIVISIONAL OFFICER, CHENGANNUR.

4. THE TAHSILDAR, CHENGANNUR.

BY G.P. SRI. C.K. GOVINDAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 PHOTOCOPY OF THE RELEVANT PAGES OF PASS PORT NO. 111825649

EXT.P2 PLAN OF THE BUILDING CERTIFIED BY THE ENGINEER.

EXT.P3 TRUE COPY OF THE ORDER NO. B.T. 79/2001 DATED 28.2.2001 OF THE TAHSILDAR, CHENGANNUR.

EXT.P4 TRUE COPY OF THE RECEIPT NO. 232 DATED 20.3.2002 OF TAHSILDAR, CHENGANNUR.

EXT.P5 TRUE COPY OF THE ORDER NO. B.T. 79/2001 DATED 10.4.2002 OF THE TAHSILDAR, CHENGANNUR.

EXT.P6 TRUE COPY OF APPEAL DATED 9.8.2002 FILED BEFORE THE REVENUE DIVISIONAL OFFICER.

EXT.P7 TRUE COPY OF THE ORDER NO. BTA 10/02 DATED 28.10.2002 OF THE REVENUE DIVISIONAL OFFICER, CHENGANNUR.

EXT.P8 TRUE COPY OF REVIEW PETITION DATED 23.12.2003 BEFORE THE DISTRICT COLLECTOR, ALAPPUZHA.

EXT.P9 TRUE COPY OF THE REMINDER DATED 15.6.2005 SUBMITTED B EFORE THE DISTRICT COLLECTOR.

EXT.P10 POSTAL RECEIPT NO. 3330 DSATED 15.6.2005

EXT.P11 TRUE COPY OF THE RECEIPT NO. 2862756 DSATED 19.7.2005 OF THE VILLAGE OFFICER, CHERIYANAD.

RESPONDENTS' EXHIBITS:

ANNEXURE A TRUE COPY OF THE MEASUREMENT.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

W.P.C. NO. 24772 OF 2005

Dated this the 17th day of July, 2007

JUDGMENT

The dispute raised pertains to plinth area of the building. Since luxury tax is a recurring liability, this Court called for a detailed measurement report from the Village Officer. Accordingly report filed along with statement shows that total plinth area of the building is 327.48 sq. metres. Counsel for the petitioner pointed out that plinth area of car porch which is 20 sq.mtrs. should be excluded. Even after excluding the car porch area, the balance area is above the minimum that attracts luxury tax under Section 5A of the Building Tax Act. So far as the area covered by tin sheet roof is concerned, petitioner's contention that it has to be excluded is unacceptable because roofed portion of the building in the first floor forms part of plinth area and it is immaterial what kind of roofing material is used. In the circumstances, and based on the measurement report submitted by the Village Officer, the assessment and demand of luxury tax on petitioner's building is upheld. W.P. is accordingly dismissed.

(C.N.RAMACHANDRAN NAIR)
Judge